

The Social Security Information-sharing (Scotland) Regulations 2021

Island Communities Impact Assessment

Introduction

1. The importance of island-proofing was recognised in the “Empowering Scotland’s Island Communities prospectus” published in June 2014. The principle of island-proofing is one of building a broad-based islands awareness into the decision making process of all parts of the public sector.

2. The Islands (Scotland) Act 2018 places a duty on the Scottish Ministers and other relevant authorities, including a number of public authorities, to have regard to island communities in exercising their functions, and for the Scottish Ministers this will also include the development of legislation. This duty is often referred to as ‘island-proofing’.

3. The Scottish Government recognises the importance of island-proofing and committed to island-proofing the Social Security (Scotland) Act 2018 Act (the Act), in advance of the Islands Act placing a formal requirement. The Scottish Government is also committed to island-proofing the secondary legislation involved in the administration of the devolved social security system.

Background

4. Social Security Scotland began administering social security benefits in September 2018, and has since started paying Carer’s Allowance Supplement, Pregnancy and Baby, Early Learning and School Age Payments, Best Start Foods, Funeral Support Payments and the Young Carer Grant.

5. The Scottish Government will, in coming years, be responsible for delivering benefits for disabled people, to replace the current disability benefits delivered by the Department for Work and Pensions on behalf of the UK Government. The first such benefit, Child Disability Payment, will replace Disability Living Allowance for Children (DLAC) from summer 2021.

6. The Scottish Government is committed to delivering a system of social security founded on core principles of fairness, dignity and respect. As part of that approach, this new social security system will rely upon the ability of Social Security Scotland to obtain information from others in order to make determinations of entitlement to disability benefits, and to make the application process for those benefits as simple as possible for individuals.

7. The persons specified in the Regulations may be required to supply data to the Scottish Ministers: (i) in relation to an individual's application; (ii) to support individuals who apply for social security assistance and wish for the supporting information necessary for their application to be supplied by the person on their behalf, in an open, transparent and client-led way; and (iii) to verify information for the prevention or identification of error.

8. In particular, the newly devolved disability benefits will rely upon information supplied by health and social care and education professionals, in order to obtain a more complete picture about an individual's disability. This will include, with the agreement of the individual, assisting individual applicants to obtain existing information from GP practices, NHS boards, education authorities, local authority social work departments and others.

9. Social Security Scotland will also require the ability to take a proportionate response to minimise the risk of error in accordance with the Scottish Public Finance Manual¹, by requiring certain persons to provide it with information about individuals who are entitled to or receiving a devolved social security benefit. This is particularly important when an individual may spend periods of time in hospital, which may affect eligibility for devolved disability benefits.

10. There will also be a need for Social Security Scotland to share information with other persons in order to allow those persons to fulfil their legal duties, and to process information about individuals in order to determine their eligibility for services, concessions, grants or discounts administered by those persons.

Consultation Process

11. In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. This consultation sought views on both the general principles for the administration of devolved social security benefits, as well as the sharing of information with other persons in connection with social security.

12. 521 formal written responses were submitted, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children/young people, equalities and human rights, disability and long term conditions and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 February 2017².

13. Further stakeholder engagement with the persons affected by these regulations took place throughout 2020, including councils and health boards for island communities. Their views and working group contributions were taken into consideration during the development of these regulations.

¹ <https://www.gov.scot/publications/scottish-public-finance-manual/background-and-applicability/background-and-applicability/>

² <https://www.gov.scot/publications/analysis-written-responses-consultation-social-security-scotland/>

Issues identified

14. In line with the principles outlined in the Social Security (Scotland) Act 2018 and our Charter, the sharing of information will be conducted in a way that is proportionate and in line with our core values of dignity, fairness and respect.

15. The Scottish Government recognises that people living in small island communities may have particular concerns in relation to this. For example, these may relate to issues such as the sharing of information about a health condition, a disability or time spent in legal detention.

16. Any information shared with the Scottish Government will protect individual's right to privacy and confidentiality. Where the individual asks the Scottish Government to collect information on their behalf, the Scottish Government will do so discreetly and in accordance with the GDPR and the Data Protection Act 2018. In particular, no more information about an individual will be shared, for the purpose of enabling information to be supplied in return, than is necessary to elicit the required information. Similarly, where information is provided to other, such as local authorities, to enable them to work out entitlement to housing benefit and the like, no more information will be shared than is required to enable the relevant function(s) to be fulfilled.

17. As with every other aspect of the work to develop the new social security system, the Scottish Government has sought to involve expert organisations and people outside of government in the development of the secondary legislation. This builds on the earlier work and commitment to work with people through the earlier consultation exercise and in the development of the Act.

18. The Scottish Government is keen to ensure that as much information as possible will be online including rules around entitlement and information about reporting any changes. We are aware however that some remote island communities may not have access to digital services nor is it everyone's preferred choice of communication.

19. The Scottish Government is aware that people want tailored solutions to suit their different preferences and needs, and will therefore work to ensure the availability of digital, telephone and face to face communication channels where possible.

Conclusions

20. The Scottish Government is not aware of any evidence that the regulations will have an impact on the key island industries, infrastructure or natural environment.

21. There is a cost attached services who assist people with benefits as they will be required to upskill staff in the new devolved assistance however that is not a cost specific to offences investigations.

22. It is also not anticipated that levels of suspected offences will vary significantly so existing demand for legal services in relation to representation for an investigation should also not vary significantly.

23. Scottish Ministers are aware of the duty to consult island communities before making a material change to any policy, strategy or service which, in the Scottish Ministers' opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities.

Reporting

24. The Act places a duty on the Scottish Ministers to publish an annual report on the performance of the Scottish social security system, which will include information on the impact of island-proofing.

25. Scottish Ministers have also committed to engaging with, and reporting regular progress to the Islands Strategic Group, to ensure that those representing the interests of island communities and others with experience of the current system, are fairly represented in the development and delivery of the Scottish social security system.

Social Security Directorate January 2021

Authorisation	
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